

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Philip KELLER

Serial No.: 09/413,821

Filed: October 07, 1999



Group Art Unit: 2747

Examiner: D. X. Nguyen

For: AUTOMATIC OUTPUT DRIVE LEVEL CONTROL IN HOME NETWORKING TRANSCEIVER

Mail Stop Non-Fee Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

☒  
☐  
☐

No additional fee is required.

Applicant is entitled to small entity status under 37 CFR 1.27

Also attached:

**RECEIVED**  
 JUN 11 2003  
 Technology Center 2600

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	10	20	0	\$18.00 =	\$0.00
Independent Claims	2	3	0	\$84.00 =	\$0.00
Multiple claims newly presented					\$0.00
Fee for extension of time					\$0.00
Total of Above Calculations					\$0.00

☐ Please charge my Deposit Account No. 500417 in the amount of \$0.00. An additional copy of this transmittal sheet is submitted herewith.

☒ The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment, to Deposit Account No. 500417, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

MCDERMOTT, WILL &amp; EMERY

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**Date: June 10, 2003**  
 WDC99 768722-1.064965.0141

Docket No.: 64965-141



#4  
6/19/03  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Philip KELLER

Serial No.: 09/413,821

Group Art Unit: 2631

Filed: October 07, 1999

Examiner: D. X. Nguyen

For: AUTOMATIC OUTPUT DRIVE LEVEL CONTROL IN HOME NETWORKING  
TRANSCIVER

**REQUEST FOR RECONSIDERATION**

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**Technology Center 2600**

Sir:

This request is submitted in response to the Office Action mailed on March 13, 2003.

Claims 1-10 are presented for examination.

***REJECTION OVER OOISHI***

Claims 1, 2, 4-8 and 10 have been rejected under 35 U.S.C. 103 as being unpatentable over Ooishi. This rejection is respectfully traversed for the following reasons.

In the application of a rejection under 35 U.S.C. §103, it is incumbent upon the Examiner to factually support a conclusion of obviousness. As stated in *Graham v. John Deere Co.* 383 U.S. 1, 13, 148 U.S.P.Q. 459, 465 (1966), obviousness under 35 U.S.C. §103 must be determined by considering (1) the scope and content of the prior art; (2)

ascertaining the differences between the prior art and the claims in issue; and (3) resolving the level of ordinary skill in the pertinent art.

It is respectfully submitted that the Examiner has failed to ascertain the differences between the prior art and the claims in issue.

In particular, independent apparatus claim 5 recites a transceiver for providing data communications over residential wiring. The transceiver comprises:

- an output driver for supplying a transmit signal of a prescribed level to the residential wiring, and

- an output drive control system for comparing a DC level set at the output of the output driver with a predetermined threshold signal to control the output driver so as to maintain the transmit signal at the prescribed level.

The Examiner has failed to point out specifically wherein Ooishi discloses a transceiver for providing data communications over residential wiring that contains the elements listed above.

Considering the reference, Ooishi discloses a semiconductor integrated circuit device with a CMOS logic gate. The reference provides no teaching or suggestion of a transceiver for providing data communications over residential wiring.

Moreover, the reference does not disclose an output driver for supplying a transmit signal of a prescribed level to the residential wiring, and an output drive control system for controlling this driver, as claim 5 requires.

Independent method claim 1 recites a method of configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring. The method comprises the steps of:

- setting a DC level at the output terminal,

-comparing a controlled value representing the DC level with a predetermined threshold level, and

-controlling the output driver until the controlled value is equal to the threshold level.

As discussed above, Ooishi does not teach or suggest configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring. Therefore, the reference cannot suggest the steps carried out to configure such a transceiver.

Accordingly, the Examiner's rejection over Ooishi is completely unwarranted and should be withdrawn.

*REJECTION OVER CHAN*

Claims 1-10 have been rejected under 35 U.S.C. 103 as being unpatentable over Chan. This rejection is respectfully traversed for the following reasons.

As discussed above, independent apparatus claim 5 recites a transceiver for providing data communications over residential wiring. Independent method claim 1 recites a method of configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring.

However, Chan discloses optical transceivers using laser beams for providing communications. The reference stresses that the optical transceivers are used to avoid need to do cabling or otherwise physically connect the facilities (col. 2, lines 5-7). Accordingly, Chan expressly teaches away from the claimed invention that requires providing data communications over residential wiring.

Moreover, the Examiner has failed to point out wherein the reference discloses an output driver for supplying a transmit signal of a prescribed level to the residential wiring, and an output drive control system for controlling this driver.

It is respectfully submitted that the reference neither teaches nor suggests a driver for supplying a transmit signal to the residential wiring, and an output drive control system for controlling this driver, as claim 5 requires. Accordingly, the reference cannot suggest a method of configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring, as claim 1 recites.

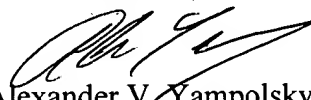
Hence, the Examiner's rejection under 35 U.S.C. 103 over Chan is improper and should be withdrawn.

In view of the foregoing, and in summary, claims 1-10 are considered to be in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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